

# Right-of-Way Use

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## A DDES Customer Information Bulletin



King County Department of Development and Environmental Services  
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<http://www.metrokc.gov/ddes/>

## Frequently Asked Questions

King County DDES has created customer information bulletins to inform the general public about the effect of codes and regulations on their projects. These bulletins are not intended to be complete statements of all laws and rules and should not be used as substitutes for them. If conflicts and questions arise, current codes and regulations are final authority. Because the codes and regulations may be revised or amended at any time, consult King County staff to be sure you understand all requirements before beginning work. It is the applicant's responsibility to ensure that the project meets all requirements of applicable codes and regulations.

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### What is a Right-of-Way Use Permit (ROWUP)?

A Right-of-Way Use Permit is a permit that is required for any type of construction within a county-owned right-of-way. A Right-of-Way Use Permit may be obtained from the King County Department of Development and Environmental Services. Right-of-Way Use Permits are also required for various types of approved uses of county-owned rights-of-way by private developers and individuals. In addition to private developers and individuals, government agencies should contact the King County Department of Transportation (DOT) for proposed improvements and uses within any county-owned rights-of-way.

### When must I apply for a Right-of-Way Use Permit?

King County Code (KCC) Chapter 14.28 states that a Right-of-Way Use Permit is required for private improvement or use of a county-owned right-of-way. Some common projects or uses in county-owned rights-of-way that require a permit include the following:

- ◆ Improvements to roads or drainage facilities required as part of a subdivision or for a residential or commercial building permit application

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- ◆ Road and/or drainage restoration work independent of any other permit activity
- ◆ Use of unopened or non-county-maintained rights-of-way for driveway/road access or installation of a drainage pipe in a roadside ditch within a county right-of-way
- ◆ Widening the shoulder of an existing road or extending an existing culvert crossing
- ◆ Altering or constructing an intersection connection with any public or private road
- ◆ Installing private utilities and utility crossing, when allowed

A Right-of-Way Use Permit may be issued independently or in conjunction with another permit application.

**Note: Items such as signs yard fences, and newspaper shacks are not allowed under a Right-of-Way Use Permit.**

## Under what circumstances do I NOT need a Right-of-Way Use Permit?

There are many development activities for which you do not need a Right-of-Way Use Permit. Although these are too numerous to list, common activities that do not require a Right-of-Way Use Permit include the following:

### 1. Work or activities in county-owned rights-of-way

Single residential driveway connection from private property to county-maintained roads (provided the property abuts the county-maintained road). However, the driveway connections must be built according to county road standards. Information about the road standards for driveway connections is available at the DDES Permit Center.

- ◆ Temporary street closures during events such as fun runs, races, and block parties, or to hang banners, flags, or signs across right-of-way areas. For these uses, a Special Use Permit is required. Contact the Property Services Division of the King County Department of Construction and Facilities Management (DCFM) at 206-296-7456 for information pertaining to this type of permit.
- ◆ Normal maintenance work, such as lawn mowing, shrubbery work, or tree trimming.
- ◆ Emergency work such as temporary patching or road surfacing repair. Permanent repair to fix the problem does, however, require a Right-of-Way Use Permit.
- ◆ Minor activities such as survey work, installing mailboxes, or repairing existing sidewalks.

### 2. Work in privately owned roads (outside county rights-of-way)

- ◆ Road construction on private tracts or privately owned lands may require a Clearing or Grading Permit. Refer to Bulletin 28, *Clearing and Grading Permits*, for additional information.
- ◆ A Right-of-Way Use Permit is required for the area where a private road intersects a public right-of-way (e.g., road landings and approaches).

### 3. Work on county-owned tracts or easements other than road rights-of-way

- ◆ For work in county-owned tracts or easements other than road Rights-of-Way, a Special Use Permit is required. Contact the DCFM Property Services Division at 206-296-7456 for more information.

### 4. Franchised utility work

- ◆ A Right-of-Way Construction (Franchise) Permit is required for all franchised utility work, including utility connections from private properties. This permit may be obtained from the DCFM Property Services Division. Contact County representatives at 206-296-7456, and refer to King County Code Chapter 14.44 for more information.

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### Are there different types of Right-of-Way Use Permits?

There are two types of Right-of-Way Use Permits: LIMITED and EXTENDED.

A LIMITED Right-of-Way Use Permit applies when an applicant is proposing to install or use some type of acceptable improvement in a county-owned right-of-way for a limited period of time (less than one year). With a Limited Right-of-Way Use Permit, the applicant is responsible for maintaining the improvement for the duration of the installation or use. Examples of this include installing a temporary access road or connecting or installing a catch basin under a county-maintained roadway.

An EXTENDED Right-of-Way Use Permit applies when the applicant is proposing to install or use some type of acceptable improvements in a county-owned right-of-way for an extended period of time (more than one year). Such installation or use requires the applicant to have maintenance responsibility for the extended period of time (more than one year), until such time as the county accepts responsibility for the improvements/installations. Examples of this include installing, using, or improving a privately maintained gravel road or installing a private sewer line in a county right-of-way.

An Extended Right-of-Way Use Permit allows the applicant access after construction. In the case of a sprinkler system, for example, the applicant remains responsible for safe maintenance throughout the entire period of the permit. Any construction work or restoration that the permit requires must be completed within one year of issuance of the permit. In addition, the applicant may be required to record a maintenance covenant that runs with the land for the benefit of King County. Such a covenant may include the following:

1. The number of the Right-of-Way Use Permit
2. The location of the right-of-way or a legal description of the parcel
3. Notification to the owner(s) association or buyer that King County is not responsible for maintenance or operation of the facilities described in the permit, and that it is an equal responsibility as permit applicant(s)
4. A statement identifying the owners association, buyers, or permit applicant(s) as being liable for any damage or injury resulting from failure to adequately maintain facilities used or operated under the permit
5. A statement pertaining to public use, safety hazards, repairs, and/or alterations

The applicant's responsibility will end when King County officially accepts responsibility for maintenance of the improvements.

**Note:** The applicant may apply for a 1-year extension of the Right-of-Way Use Permit after the first six months of the original permit life.

**Note:** KCC 14.28.020(B) allows a Right-of-Way Use Permit to be "consolidated" into other permit reviews and approvals, such as issuance of a commercial building permit or engineering plan approval for a grading permit or subdivision. In these cases, a separate Right-of-Way Use Permit application will not be required.

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Right-of-Way Use Permit applicants must assume costs for the construction of the approved improvements and for the restoration of the disturbed county right-of-way to conform to county standards. This requirement includes posting a financial guarantee to cover the costs of the approved project construction and the disturbed right-of-way restoration.

### How do I apply for a Right-of-Way Use Permit?

An application for a Right-of-Way Use Permit may be obtained from the Permit Center at King County's DDES offices. All proposed improvements or uses must conform to the county standards that are in effect when you submit your complete application.

Following completion of the application form, submit the following materials to the Land Use Services Division of DDES:

- 1. The completed application form.** Fill in all blank spaces and answer all questions in Sections I through V of the application form. Include a location sketch on the back of form only if other plans or sketches are not available. Submit a good quality photograph showing the location(s) of the proposed work in the road right-of-way in all directions, roadway, roadside ditches, shoulders, road pavement or gravel surface, and other existing adjacent utility structures. Identify property corner locations on the photographs wherever possible.
- 2. A copy of any applicable Assessor's maps.** On the Assessor's map, outline the right-of-way to be opened or improved in red. Also outline the property that will be served by the proposal. An Assessor's map may be obtained from the Map Counter at the King County Department of Transportation (DOT). DOT is located on the 9<sup>th</sup> Floor of the King County Administration Building. Call 206-296-6548 at least one day in advance to order your map.
- 3. An environmental checklist.** Applicants must complete an environmental checklist describing any adverse impacts to the environment that will be caused by the proposal. This form is required under the State Environmental Policy Act (SEPA), unless a checklist has already been submitted for another development permit on the same parcel, or the proposed work is exempt. Categorical exemptions are specified under Washington Administrative Code (WAC) 197-11-800. You may also refer to Bulletin 26, *The SEPA Process*, for additional information.
- 4. Payment of the initial review fee.** An initial review fee is required with your application. Additional fees such as an inspection fee and an engineering plan review fee may also be required, depending on the complexity of the proposed work. The initial fee must be paid when you submit your application; other required fees must be paid before your permit may be issued. In addition, all required financial guarantee(s) must be posted before permit issuance.
- 5. Certificate of Applicant Status/Transfer of Applicant Status.** This form is available at the DDES Permit Center.
- 6. Site (Parcel) Legal Description.** The title company can provide this legal description.
- 7. Sensitive Areas Affidavit.** This form is available at the DDES Permit Center.

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### Are there any other requirements?

Yes, there may be other requirements associated with your permit application, such as engineering plans, surveying, dedication, improvement construction, and financial guarantee(s). Information regarding these other requirements is provided below.

Following submittal and preliminary review of your initial application, you will be notified of the conditions and requirements that are necessary before a Right-of-Way Use Permit may be issued. In some cases, conditions may include requirements to ensure that the permit complies with the Comprehensive Plan, the *Surface Water Design Manual*, the Sensitive Areas Ordinance, community plans, and other county policies and state regulations.

The initial application begins the process of obtaining a Right-of-Way Use Permit. A conditions notification will be issued that will outline the requirements you must satisfy to obtain a valid Right-of-Way Use Permit. The second step is to submit engineering plans and any associated plan submittal fees. Engineering plans may also be submitted with the initial application. Following plan review and approval, payment of inspection fees, and posting of financial guarantee(s) and submittal of the recorded maintenance covenant, the Right-of-Way Use Permit will be issued.

**1. Engineering plans.** Depending on the complexity of proposed improvements, detailed engineering plans, restoration plans, drainage plans, and/or a technical information report (TIR), may be required. If plans are required, they must be prepared by a licensed civil engineer, consistent with the requirements of the *Surface Water Design Manual*. If special studies are required, such as wetland, stream, or geotechnical investigations, these must also be performed by a qualified specialist, and the results must be incorporated into the engineering plans. The applicant is financially responsible for any studies, as well as the cost of the design and submittal of the engineering plans. The plans must be submitted to the Land Use Services Division at DDES and must be reviewed and approved by DDES before a permit may be issued.

**2. Surveying.** You may be required to have your right-of-way surveyed by a licensed land surveyor if the development engineer considers it necessary (see KCC Chapter 14.28).

**3. Dedication.** You may be required to deed an additional right-of-way or easement across your property to fulfill minimum road right-of-way width requirements (see KCC Chapter 14.28).

**4. Improvement Construction and Financial Guarantee (FG):** Before a permit may be issued, you will be required to submit a Right-of-Way Use and Site Restoration Agreement form, including an acceptable FG, and pay a construction inspection fee. The amount of the FG is determined using the Bond Quantities Worksheet and shall be a cash deposit with King County in an amount up to \$7,500. The minimum FG shall be \$1,000, and any amount exceeding \$7,500 may be in the form of a surety bond or assignment of funds. An FG is required to ensure the following:

- ◆ Construction meets county standards, approved plans, and permit conditions
- ◆ The right-of-way is restored to its original condition or better if any work or alteration work is not completed according to the terms of the permit and the financial guarantee

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- ◆ Construction activities will not interfere with traffic safety or create liability problems
- ◆ Any facilities that will be maintained by King County are properly accepted
- ◆ All work will be completed within one year

Construction inspection fees cover the costs of inspection for one year. Fees vary depending on the amount of the FG that is posted and the current adopted fee schedule in use. If the project is not completed within one year, annual inspection fees will be charged. You must contact the Development Inspection Section at least 72 hours before starting construction work to set up a pre-construction meeting. To schedule a pre-construction meeting, call 206-296-6642 . At the pre-construction meeting, you will be informed of construction and inspection requirements for the completion of your project and release of guarantees.

**5. Expired, Withdrawn, or Canceled Right-of-Way Use Permits.** Limited Right-of-Way Use Permits will expire one year from the date of issuance. You may request a 1-year extension, provided that all work is in compliance with the permit, and satisfactory progress has been made toward completion. At any time during the permitting process, you may decide to discontinue the permit—you have the option of requesting that your application be withdrawn in writing. If the permit has been issued and construction work has begun, however, you will need construction inspection approval to ensure that the right-of-way is restored and in satisfactory condition acceptable to the county before release of the financial guarantee(s).

Once a permit expires or is withdrawn or canceled, a new permit application is required to obtain a new **Right-of-Way Use Permit**.

**Call before you dig.** To avoid the expense and inconvenience caused by damaged utility lines, call 1-800-425-5555 to locate underground utilities.

**For additional technical information, you may contact Mazen Haidar, DDES Land Use Services Division Engineer, at 206-296-7133, or by e-mail at [mazen.haidar@metrokc.gov](mailto:mazen.haidar@metrokc.gov).**

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### Other bulletins and telephone numbers that may be helpful

Bulletin 1	Building and Development Permit Telephone Numbers
Bulletin 26	The SEPA Process
Bulletin 28	Clearing and Grading Permits
Bulletin 29	Drainage Review
Bulletin 40	Financial Guarantees
Bulletin 40A	Financial Guarantees for Residential Permits
Bulletin 40B	Financial Guarantees for Commercial Permits
206-296-6600	DDES Permit Center
206-296-6655	DDES Zoning Information
206-296-6640	DDES Land Use Services Division
206-296-6642	DDES Development Inspection Section
1-800-425-5555	To locate underground utilities
206-296-6548	Map Counter at King County DOT
206-296-7456	Property Services Division of King County Construction and Facilities Management



King County complies with the Americans with Disabilities Act (ADA). If you require an accommodation to attend a meeting (two weeks notice) or require this information in Braille, audiocassette, or large print, please call 206-296-6693 or TDD 206-296-7217.